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In re Application of HEID
U.S. Application No.: 09/770,958
Int. Application No.: PCT/EP99/03175
Int. Filing Date: 10 May 1999
Priority Date: 29 May 1998
Attorney Docket No.: (Z)98017 P US
For: KNIFE-HOLDER FOR A MICROTOME

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 25 January 2001.

BACKGROUND

On 10 May 1999, applicant filed international application PCT/EP99/03175, which claimed priority of an earlier Germany application filed 29 May 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 09 December 1999.

International application PCT/EP99/03175 became abandoned as to the United States for failure to timely pay the basic national fee.

On 25 January 2001, applicant filed the present petition. The petition states that it is accompanied by a continuation application filed under 37 CFR 1.53(b), the petition fee set forth in 37 CFR 1.17(m), and a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional."

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire

delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), the filing of the present continuation application under 35 U.S.C. 111 and 37 CFR 1.53(b) is accepted as the appropriate response under 37 CFR 1.137(b).

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

International application PCT/EP99/03175 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present U.S. continuation application number 09/770,958.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision and will thereafter be forwarded to the Office of Initial Patent Examination for further processing and review as an application filed under 35 U.S.C. 111.



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